



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 6, 1955

Honorable Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Opinion MS-210

Re: Constitutionality of Senate
Bill 25, 54th Legislature,
authorizing additional court
costs in divorce cases in
certain counties.

Dear Governor Shivers:

You have requested an opinion on the constitutionality of Senate Bill 25, 54th Legislature, providing for additional court costs in divorce cases in counties having a population of more than 350,000 inhabitants for the purpose of maintaining a Child Support Office. Money derived from the additional costs is to be kept by the county treasurer in a separate fund to be known as the "Child Support Fund", to be administered by the Juvenile Board of the county, subject to the approval of the Commissioners Court.

Section 56 of Article III of the Constitution of Texas prohibits the enactment of local or special laws regulating divorces. However, courts of this State, in construing the provisions of Section 56 of Article III have held that a statute is not local or special within the meaning of the Constitution even though its enforcement be restricted to a particular locality if persons or things throughout the State are affected thereby or if it operates upon a subject in which the people at large are interested. Clark v. Finley, 93 Tex. 171, 54 S.W. 343 (1899); Reed v. Rogan, 94 Tex. 177, 59 S.W. 255 (1900); Stephensen v. Wood, 119 Tex. 564, 34 S.W. 2d 246 (1931); McGee Irrigating Ditch Company v. Hutton, 85 Tex. 587, 22 S.W. 967 (1893); Handy v. Johnson, 51 Fed. 2d 809 (E.D.Tex.1931); Lower Colorado River Authority v. McCraw, 125 Tex. 268, 83 S.W. 2d 629 (1935); Lower Neches Valley Authority v. Mann, 140 Tex. 294 167 S.W. 2d 1011 (1943); Lamon v. Ferguson, 213 S.W. 2d 86 (Tex. Civ. App. 1948).

The primary and ultimate test of whether a law is general or special is whether there is a reasonable basis for the classification made by the law and whether the law operates equally on all within the class. Rodriguez v. Gonzales, 148 Tex. 537, 227 S.W. 2d 791 (1950); Bexar County v. Tynan, 128 Tex. 223, 97 S.W. 2d 467 (1936); Miller v. El Paso County, 136 Tex. 370, 150 S.W. 2d 1000 (1941).

The emergency clause of Senate Bill 25 states that in counties of 350,000 inhabitants or more a large number of Child Support Orders have accumulated, and that the various counties cannot adequately conduct the business of the Child Support Office without the expenditures of large sums of money.

Since Child Support Orders and the duties of the Juvenile Board are in relation to the population of the County, we believe that the classification contained in the bill is a reasonable classification. Furthermore, the act is on a subject matter in which the people at large are affected and interested. Lamon v. Ferguson, supra.

Since the Legislature has the authority to determine court costs and Senate Bill 25 does not constitute a local or special law within the meaning of Section 56 of Article III of the Constitution of Texas, it is our opinion that Senate Bill 25 is constitutional.

Yours very truly,



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APPROVED:

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JR:zt:elb